

Notice of Allowability

Application No.

09/630,272

Examiner

Nicholas D. Rosen

Applicant(s)

DRIESSEN, JAMES LEONARD

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment and remarks of June 17, 2005.
2. ☒ The allowed claim(s) is/are 14-19,22,23 and 29-35.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☒ Other Info sheet for pro se.

DETAILED ACTION

Claims 14-19, 22-23, and 29-35 have been examined and allowed.

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with pro se applicant James Driessen on September 13, 2005.

The application has been amended as follows:

Claims 20-21 and claims 24-28 and 36 are hereby cancelled without prejudice or disclaimer.

In the ninth line of claim 29, "receiving, payment of said price" is hereby corrected to **"receiving payment of said price"**. (The comma is deleted.)

On the page numbered 7 of the replacement specification received December 12, 2003, the paragraph beginning on line 142 of the specification is restored to read: **"While RPOS can facilitate Secure Web Transactions, it is not a method of the transaction, merely an apparatus of divining the existence of a predetermined web transaction. It does not require a trusted vendor, trusted bank, or buyer authentication. While RPOS may facilitate some of the same types of functions mentioned above, it uses a completely new method."**

On the pages numbered 8 and 9 of the replacement specification received December 12, 2003, the paragraph beginning on line 180 is restored to read: **"A security access key is provided in the form of prepaid card sold as a retail item. The access key has a one time or multiple Internet session use as provided by the seller of the card. Through obtaining the CARD, the purchaser gains access to the website or specific web page(s) intended by the seller for either a defined duration of time or an indefinite duration of time. Any time the end-user (customer) of the CARD is on the Internet, a very simple utility program may be deployed to ensure that there are no changes to the cache content of the customer's computer and no cookies are accepted or transmitted during the delivery of the media content. The utility of the invention is that it provides a method of controlling web access that requires at least one transaction be completed in person. No connection to a banking system for credit referencing is required, no vast system of computer networks is needed to verify anonymity and account status. The actual transaction takes place over-the-counter. The delivery takes place on a computer of the users choice."**

Note: The changes to the specification made by Examiner's amendment merely restore the specification to the form it had before the amendment received June 17, 2005.

Allowable Subject Matter

Claims 14-19 and 35 are allowed.

The following is an examiner's statement of reasons for allowance: The closest prior art of record, "Mala Powers: Hollywood Star Still Shines on Walk of Fame," discloses means for storing and retrieving a record on or in a physical medium corresponding to a network number for access to items of merchandise or media; and means for transaction authorization or other transaction security on, in, or actuated from said physical medium to facilitate access to said merchandise or media for the customer (paragraph beginning "Powers' latest venture"). "Mala Powers" does not disclose a retail point of sale establishment, a customer access point at said retail point of sale establishment, means for accepting payment through an in person transaction with a customer, and means for transfer of the physical medium from said retail point of sale establishment to said customer, but "Mala Powers" does disclose a pre-paid card that would presumably be purchased somewhere, and retail point of sale establishments with customer access points, means for accepting payment, and means for transfer of merchandise, including physical media such as cards, are well known. "Mala Powers" does not disclose an Internet transaction location or URL information, but does disclose a telephone network transaction location and location information (phone number and code), which can be considered analogous art. However, "Mala Powers" does not disclose that the record corresponds to a network location of itemized merchandise or itemized downloadable media material objects, nor does "Mala Powers" disclose actual transfer of ownership rights, or means for such transfer, in said itemized merchandise or itemized downloadable media material objects through transfer of the pre-paid calling card. Transfer of ownership rights is of course known, and Kupka (U.S. Patent

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6,434,535), for example, discloses distribution of electronic content using a pre-paid medium, but in Kupka, one deducts value from a balance of the pre-paid medium; the pre-paid medium does not correspond to itemized merchandise preselected and transferred to the customer through transfer of the pre-paid medium. No other prior art of record supplies the deficiencies of "Mala Powers" and Kupka.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Claims 22 and 23 are allowed.

The following is an examiner's statement of reasons for allowance: The closest prior art of record, "Mala Powers: Hollywood Star Still Shines on Walk of Fame," discloses an anonymous transaction system to facilitate obtaining access to network merchandise (hearing stories over the telephone network; this is not Internet merchandise, but can be considered analogous art, and Internet merchandise is well known). "Mala Powers" implies a telephone connected to the telephone network by which the user connects to the access number, the telephone presumably having a telephone number, and thus comparable to a user access terminal connected to the Internet, and having an IP address. "Mala Powers" implies of purchase of the pre-paid card, and it is well known to buy cards with cash, which can be done with no disclosure of user information; and when the user punches in the CALL SANTA code printed on

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the pre-paid card in "Mala Powers," there is thus no disclosure of user information required, save perhaps detection of the user's telephone number, analogous to the IP address. However, "Mala Powers" does not disclose facilitating the transfer of ownership rights in itemized Internet merchandise or itemized downloadable media material objects, since the pre-paid card does not correspond to particular itemized merchandise, and ownership rights are not transferred. Transfer of ownership rights is of course known, and Kupka (U.S. Patent 6,434,535), for example, discloses distribution of electronic content using a pre-paid medium, but in Kupka, one deducts value from a balance of the pre-paid medium; the pre-paid medium does not correspond to itemized merchandise transferred to the customer through transfer of the pre-paid medium. No other prior art of record supplies the deficiencies of "Mala Powers" and Kupka.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Claims 29-34 are allowed.

The following is an examiner's statement of reasons for allowance: The closest prior art of record, "Mala Powers: Hollywood Star Still Shines on Walk of Fame," discloses a pre-paid card for accessing goods on a network, and presumably receiving payment for said pre-paid card at a retail point-of sale location; and discloses a telephone number to dial, which can be considered specific information that is a

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transaction location of a product (a story) that is networked merchandise. However, "Mala Powers" does not disclose that the payment amount is specifically associated to said product, and does not disclose sending a payment message as a response to the in-person transaction of buying the card to a selling computer (or equivalent telephone system) on the network, nor causing an authorization message to be created on the selling computer as a result of the payment message, nor would there be any particular motivation to do so. "Mala Powers" does not disclose causing transfer of ownership rights in the product, although it does disclose granting access or rights to the user, but not as a result of the authorization message. Transfer of ownership rights is of course known, and Kupka (U.S. Patent 6,434,535), for example, discloses an authorization message indicating that a prepaid medium is valid, but in Kupka, one deducts value from a balance of the pre-paid medium; the pre-paid medium does not correspond to an in-person transaction for payment of the price of a specific product available from the vendor computer. No other prior art of record supplies the deficiencies of "Mala Powers" and Kupka.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kupka et al. (U.S. Patent 6,434,535 B1) disclose a system for prepayment of electronic content using removable media and for prevention of unauthorized copying of the same. Tsiounis et al. (U.S. Patent Application Publication 2001/0032878) disclose a method and system for making anonymous electronic payments on the World Wide Web. Yokono et al. (U.S. Patent Application Publication 2002/0029241) disclose a downloading system. Hutchison et al. (U.S. Patent Application Publication 2005/0192896) disclose a method and apparatus for ordering goods, services, and content over an internetwork using a virtual payment account.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nicholas D. Rosen, whose telephone number is 571-272-6762. The examiner can normally be reached on 8:30 AM - 5:00 PM, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins, can be reached on 571-272-7159. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Non-official/draft communications can be faxed to the examiner at 571-273-6762.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nicholas D. Rosen
NICHOLAS D. ROSEN
PRIMARY EXAMINER

September 14, 2005

It appears that the applicant in this application is a *pro se* applicant (an inventor filing the application alone without the benefit of a Patent Attorney or Agent). Applicant may not be aware of the preferred methods of ensuring timely filing of responses to communications from the Office and may wish to consider using the Certificate of Mailing or the Certificate of Transmission procedures outlined below.

CERTIFICATE OF MAILING

To ensure that the Applicant's mailed response is considered timely filed, it is advisable to include a "certificate of mailing" on at least one page (preferably on the first page) of the response. This "certificate" should consist of the following statement:

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" on (date).

(Typed or printed name of the person signing this certificate)

(signature)

CERTIFICATE OF TRANSMISSION

Alternatively, if applicant wishes to respond by facsimile rather than by mail, another method to ensure that the Applicant's response is considered timely filed, is to include a "certificate of transmission" on at least one page (preferably on the first page) of the response. This method should be used by foreign applicants without access to the U.S. Postal Service. This "certificate" should consist of the following statement:

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (703)____-____ on (date).

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(Typed or printed name of the person signing this certificate)

(signature)

These "Certificates" may appear anywhere on the page, and may be handwritten or typed. They must be signed, and the date must be the actual date on which it is mailed or transmitted. For the purpose of calculating extensions of time, the date shown on the certificate will be construed as the date on which the paper was received by the Office, regardless of the date the U.S. Postal Service actually delivers the response, or the fax is "date-stamped" in. In this way, postal or transmission delays do not affect the extension-of-time fee.

In the event that a communication is not received by the Office, applicant's submission of a copy of the previously mailed or transmitted correspondence showing the **originally** signed Certificate of Mailing or Transmission statement thereon, along with a statement from the person signing the statement which attests to the timely mailing or transmitting of the correspondence, would be sufficient evidence to entitle the applicant to the mailing or transmission date of the correspondence as listed on the Certificate of Mailing or Transmission, respectively.

NOTICE TO APPLICANT: In the case of lost or late responses the use of other "receipt producing" forms of mailing a correspondence to the Patent Office, such as Certified Mail, or a private shipper such as FedEx, **WILL NOT** result in the applicant getting the benefit of the mailing date on such receipts. These receipts are not considered to be acceptable evidence since there is nothing to "tie-in" the receipt with the particular document allegedly submitted.